

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

Kenneth Fox,)	C/A NO. 3:10-2198-CMC-PJG
)	
)	
Plaintiff,)	
)	
v.)	
)	
Food Lion LLC; Store #194; Store/Regional)	
Manager, Owner/Manager Property)	
5118 Fairfield Road,)	
)	
Defendants.)	
)	

OPINION and ORDER

This matter is before the court on Plaintiff's *pro se* complaint, asserting various claims against the above-listed Defendants.

In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02 (B)(2)(e), DSC, this matter was referred to United States Magistrate Judge Paige J. Gossett for pre-trial proceedings and a Report and Recommendation ("Report"). On October 7, 2010, the Magistrate Judge issued a Report recommending that the complaint be dismissed without prejudice and without issuance and service of process. The Magistrate Judge advised Plaintiff of the procedures and requirements for filing objections to the Report and the serious consequences if he failed to do so. Plaintiff filed objections to the Report on October 25, 2010, as well as a motion to amend and a supplement to his Answers to Local Rule 26.01 Interrogatories.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *See Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo*

determination of any portion of the Report of the Magistrate Judge to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. *See* 28 U.S.C. § 636(b). The court reviews the Report only for clear error in the absence of an objection. *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.”) (citation omitted).

After conducting a *de novo* review as to objections made, and considering the record, the applicable law, the Report and Recommendation of the Magistrate Judge, and Plaintiff’s objections, the court agrees with the conclusions of the Magistrate Judge. Accordingly, the court adopts and incorporates the Report and Recommendation by reference in this Order.

Plaintiff’s objections are merely argument why his case has merit. They do not specifically address why this matter (as against the Defendants in *this* matter) should not be dismissed.

Plaintiff’s motion to amend seeks to add “a party in the place of Food Lion’s Manager” and production of discovery which he believes would be helpful to his case. Mot. at 1 (Dkt. # 14, filed Oct. 25, 2010). Plaintiff does not identify the individual he wishes to name, nor does he include a proposed amended complaint which delineates any claims he wishes to add.

The complaint as it now exists is subject to dismissal without prejudice, as it identifies no specific allegations against Defendants. However, Plaintiff shall have until **Monday, November 15, 2010**, to file a supplemental motion to amend which identifies the individual who Plaintiff seeks to add to this complaint. Plaintiff should attach a complete proposed amended complaint to his

supplemental motion. The court will reevaluate the status of the complaint at that point.

IT IS SO ORDERED.

s/ Cameron McGowan Currie

CAMERON McGOWAN CURRIE

UNITED STATES DISTRICT JUDGE

Columbia, South Carolina

November 3, 2010